

EXHIBIT 3

Subj:	Re: BOA/Kincaid
Date:	10/7/2005 10:42:40 AM Eastern Daylight Time
From:	DvdFine
To:	SSweeney@EdwardsAngell.com
CC:	GKostakos@EdwardsAngell.com

Dear Ms. Sweeney:

The Court issued its order compelling discovery on September 8. On September 23, Steve Ackermann advised me in writing that the Bank would produce the discovery ordered by the Court no later than September 30. Given the foregoing, and given that the Court has scheduled the final pretrial conference for this case for October 25, further delay in the Bank's full compliance with the Court's September 8 Order is simply not acceptable.

Accordingly, this is formally to advise the Bank that unless the Bank delivers all Court-ordered documents and interrogatory answers to my office by 12:00 noon on Monday, October 10, plaintiff will file with the Court on Tuesday, October 11 a motion for sanctions, the requested sanctions to include, without limitation, a finding of contempt and an instruction to the jury that it may infer consciousness of liability from the Bank's discovery misconduct. In saying this, I am fully aware that Monday, October 10 is a "holiday" but, if the Bank fails to comply with plaintiff's foregoing demand, I feel I have little choice but to devote the afternoon of this holiday to preparing the above-described motion for sanctions.

Very truly yours,

David J. Fine